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## Current Notes

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## CURRENT NOTES

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**Advisory Committee**—On January 24, 1935, in accordance with the resolutions adopted at the Attorney General's Conference on Crime (see "Current Notes," 25 J. Crim. L., pp. 788-797) Hon. Homer Cummings, Attorney General of the United States, announced the appointment of an advisory committee "to formulate the plans for a national scientific and educational center for the better training of carefully selected personnel in the field of criminal law administration and the treatment of crime and criminals." The Committee had an organization meeting in February, 1935, and met again in March. Their plans are awaited with nationwide interest. The members are: Scott M. Loftin, President, American Bar Association; Peter Siccardi, President, International Association of Chiefs of Police; Mrs. Grace Morrison Poole, President, General Federation of Women's Clubs; William Draper Lewis, Director, American Law Institute; J. Weston Allen, former Attorney General of Massachusetts; Henry Horner, Governor of the State of Illinois; Sanford Bates, Director, Bureau of Prisons; Gordon Dean, Special Attorney, Department of Justice; J. Edgar Hoover, Director, Division of Investigation; Joseph B. Keenan, Assistant Attorney General; William

Stanley, Assistant to the Attorney General; Henry Suydam, Special Assistant to the Attorney General; Charles E. Clark, Dean, Yale University Law School; Justin Miller, Special Assistant to the Attorney General, Chairman.

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**Hoover Address**—February 7, 1935, J. Edgar Hoover, Director of the Division of Investigation, U. S. Department of Justice, addressed the New York State Chamber of Commerce. His subject was "Law Enforcement and the Citizen" and his remarks have attracted wide comment. Space is lacking here to reprint his address entirely but one part of it is so interesting and important, coming from the Director of the Division of Investigation, that it is given below. Mr. Hoover is to be congratulated for such an honest and thoughtful denunciation of a growing evil on our public life.

"There is something more which is even more deadly, even more insidious, even more viciously criminal than the activities of such persons as I have mentioned. It is the power, the influence and the constant interference with the course of justice pursued by those persons who make crime possible; the criminally-minded attorney and the criminally-minded politician.

"We have allowed to be built up in this country a system which runs from the cheap office-holding panderer and the vote-getting activities of a local ward-heeler in a small country town to the controlling influence of vast cities where that power is a greater one, in many instances, than the power of the courts in which we impose our trust and faith. It is greater than that of many police forces. It is more powerful than prosecuting attorneys. It is a dishonest power which unless checked threatens to become greater than the honesty of our American citizenry. This is the influence which politics plays in the hampering, the hamstringing and the garroting of the honest officer who would reach out and drag the criminal from his lair.

"You may say that these are general terms. That is true. They are general terms because this activity is a general activity. It is something which permeates the fabric of our daily life. A person who has no pull, no drag, no 'in' as they call it, who is not wired in to the places of power, must stand craven and trembling and take his punishment. But the stronger and more influential a man is through his political affiliations, the greater crimes he can commit and laugh at the law. It is interesting to watch the progress of the politically-protected criminal. I have in mind case after case where young men have started in reformatories or penitentiaries and then suddenly become, on their release, persons of influence in their communities. They control districts. They deliver votes and after this is done, you see a sudden change in the treatment accorded them by law-enforcement agencies. You find arrest after arrest by honest police officers and you find acquittal after

acquittal where cases have been dismissed or *nolle prossed* or the indictment quashed. Who does this? The police who arrest this man? The officers who have risked their lives to take into custody some vicious criminal, who perhaps is carrying a gun and has a permit to do so, given him through political affiliations? Or is it some power which is greater than that of other law-enforcement agencies? I give you this to think over and, I hope, to act upon.

"It is a habit of politicians to start the insinuation that because a city or a community has an excess of criminality, there must be something wrong with the police. This is a red herring drawn across the trail to lead good citizens astray. The hardest job that a law-enforcement officer faces is not that of chasing the criminal, but of keeping his job in the face of a tremendous political barrage of influence and propaganda. If some slight thing goes wrong in a police department, there is always someone, and often with an ulterior motive, to demand an investigation, thus throwing the police department into a perfect turmoil of explanations in an effort to survive.

"After all, law-enforcement officers are human beings. They have their homes. They have loved ones. They have their debts. They have the burdens and the tribulations which beset any of us in the usual course of life. Therefore, like the human being, they must think of their job; they must fight and defend it and when a law-enforcement officer must spend the greater part of his time defending himself from ulterior influences instead of chasing criminals, then a situation is created which is dangerous to our

country's peace, its security, and happiness."

**Prison Notes**—The prison labor problem continues to trouble the states and has recently been the subject of a great deal of controversy and discussion. A recommendation for complete replanning of the prison industries of the states which will remove prison-made goods from the open market and end the long drawn controversy on the subject was recently made to the National Industrial Recovery Board by a special investigating committee. Use of \$50,000,000 Public Works funds for the purpose was advocated.

This group was created under an executive order issued by President Roosevelt October 12, 1934, to investigate effects of competition between prison labor and sheltered workshop products on the one hand and those of the cotton garment industry on the other, and also on the operation of N. R. A.'s prison labor compact.

The report has not been acted upon by the Board as yet. It was required as part of the arrangement under which the President, following extended investigation, required a shortening of the work hours in the cotton garment industry from 40 to 36, effective December 1.

The committee, composed of Judge Joseph N. Ulman of Baltimore, chairman; Frank Tannenbaum, author and economist, and W. Jett Lauck, statistician, found that the Prison Labor compact "has not solved the problem of prison labor and will not solve it permanently and constructively," but "is an indispensable part of any plan for the real solution of the problem of prison labor."

The committee urged that until

such time as the system it suggested is brought about, the Recovery Board "use its good offices through the President and the Federal Emergency Relief Administration to effect the purchase from the prisons of prison-made garments, or to utilize the labor now employed on prison-made garments to make such other garments as the Federal Emergency Relief Administration may deem preferable. The purchase of these garments by the F. E. R. A. from the state prisons," it continued, "should be scheduled on a declining scale, and should cease at the end of two years."

The committee also recommended that prison made garments be barred in the public market by withdrawal of the N. R. A. label now used or by its modification to read "prison made." Lapse of a 15-day period after publication of the report was recommended before F. E. R. A. should take over prison-made clothing. Another point was that the Prison Labor authority should be continued and used as the agency to centralize the proposed program, and that N. R. A. be empowered by executive order to require an agreement between the prison labor authority and the various code authorities in every instance that prison industries made a change in price. Arbitration was provided for in case of non-agreement. A quota system limiting prison production for the open market to the volume of output at the time the prison compact came into existence was advocated, and that all state, county and city institutions now outside the compact be brought into the new program.

"The only true solution of the prison labor problem," said the committee in the section of the report devoted to findings, "is one that

will effectually remove the products of prison labor from the ordinary channels of competitive trade and commerce. This means the state use system.

"The present and potential competition of prison industry with the Cotton Garment industry has created a special and acute problem that calls for immediate attention and relief.

"The testimony we have heard shows that the principal friction and the most irritating conflicts have arisen between the Prison Labor Authority and the Cotton Garment Code authority. This is due neither to accident nor to merely personal differences."

State Action on Ulman Report: Representatives of prisons from 28 states, the District of Columbia, and the Federal Government concluded a two-day meeting in Washington, D. C., December 12, 1934. The meeting was called to consider the report submitted to the N. R. A. recommending the elimination of the sale of prison-made goods on the open market and the establishment of state-use industries with the aid of a \$50,000,000 grant of Federal Funds. While no formal action was taken other than the appointment of a committee to prepare a reply to submit to the N. R. A., Colonel John J. Hannan, Chairman of the Board of Control of Wisconsin, who presided, stated that the prison men of the country had voiced their desire to cooperate with the President and Attorney-General Cummings in their program of improving prison administration and coordinating the activities of State and Federal Governments in handling the criminal.

The elimination of prison products from the open market immediately is not feasible, Col. Hannan

said, but practically every State represented, he said, was willing to consider "pegging" their sales on the open market at a reasonable limit provided the Federal Government would assist in establishing State-use industries to take care of idle prisoners. The right to sell prison products to all tax-supported institutions and agencies, however, Col. Hannan stated, must be guaranteed and no exceptions granted to any favored industries.

The exhaustion of P. W. A. funds and relief appropriations has made it impossible for the administration to take affirmative action as yet on the Ulman Report. The Prison Labor Authority has filed a detailed answer to the Ulman Report which is conciliatory in tone and which approves the principles set forth in the Ulman Report. It points out certain handicaps in the way of its immediate adoption and installation but indicates that it points the way towards improving existing conditions of idleness in prisons.

Extent of Idleness in Prisons: Never before in the history of American penology has there been so much enforced idleness in prisons. No suitable substitute has been found for the contract labor system which has been eliminated from most prisons by the combined effect of the N. R. A. and the Hawes-Cooper Bill. The so-called state-use plan has not been effective because there have been no monies in state treasuries to install machinery and equipment to make articles needed by the state and because much the same opposition, although from a different group, has prevented the orderly development of plans to make in prison the things the state buys. Conservative estimates place the number of idle prisoners at 100,000—seventy per cent of the total

population of all prisons and reformatories.

The harassed prison administrator does not know where to turn. Surveys of vocational training possibilities have shown him that only about 12 per cent of his men can be occupied in trade schools. All of the other prisoners either are already equipped with a trade or vocation, are rooted in rural communities where they can do only farming or common labor, or so handicapped mentally and physically that they cannot possibly learn a trade. Moreover, the prison man asks why should he spend his limited appropriations teaching men trades in which they cannot possibly find employment?

**Garment Code Appeals to Court:** When the President's order placing the Cotton Garment Industry upon the thirty-six hour week was promulgated, certain members of the Cotton Garment Industry sought an injunction in the Supreme Court of the District of Columbia because they claimed it would work an undue hardship upon them and confiscate their property without due process of law. One of the principal allegations in the bill was that they suffered from the unfair competition of prison labor and asked that the blue eagle label issued by the N. R. A. for use on prison-made goods be withdrawn. Justice Adkins of the Supreme Court of the District of Columbia in denying the injunction stated that the Prison Labor Compact has been of considerable help in remedying unfair conditions of competition and that he was satisfied that there had been a great reduction of prison competition with private industry. Affidavits before him showed that whereas approximately 19,000 prisoners were engaged in making cotton garments a year ago,

there were now but 3,000 prisoners engaged in this industry. Justice Adkins' decision was a complete vindication of the Prison Labor Compact and a repudiation of the non-cooperative tactics heretofore followed by the Cotton Garment Industry.

**Kentucky Makes Contract:** Conditions of idleness have become so deplorable in the Kentucky State Prison that they recently negotiated a contract with the Huffein Shirt Company for the utilization of approximately 400 prisoners in the manufacture of cotton garments. This contract has been the subject of indignant protest by industry and by labor and the Prison Labor Authority is to give all interested parties a hearing before reaching a decision as to whether it should issue labels for use on goods made under the contract.

**Michigan Revamps Prison System:** The new Republican administration in Michigan has reinstated Mr. Harry Jackson, formerly a warden of the Jackson Penitentiary and several other wardens and superintendents who held office prior to the last Democratic administration. The new Prison Board has requested further survey by the Osborne Association of the Michigan Prison System and is planning to make a reorganization of existing policies.

**New Member of Federal Parole Board:** The Honorable Irvin B. Tucker recently resigned from the Federal Parole Board to resume practice of law. He is being succeeded by Dr. Charles Whelan of Birmingham, Alabama.

**New Georgia Prison:** A contract has been let for the construction of a new prison in Georgia. The funds for this institution were supplied entirely by the Public Works Administration. The prison will house

approximately two thousand men, half of whom will probably be white and the other half colored. It is located in the southern part of Central Georgia and is hailed as the beginning of the end of the chain gang system in Georgia.

**Oklahoma Prison System Studied:** Representatives of the Brookings Institute in Washington, D. C., are making a study of the entire state administration in Oklahoma for Governor Marland. One of the problems to which the Governor is giving a great deal of attention is the revamping of the correctional system of Oklahoma. A great deal of criticism has been levelled against the prisons of that state because there have been so many escapes of desperate criminals in recent years and on account of the antiquated institutions which are used to house state prisoners. It is expected that the results of the survey will be available within a month or two.

**Federal Prison Population Increasing:** The number of Federal prisoners is again increasing quite rapidly due to the increased activities of the Treasury Department in enforcing the statutes affecting the taxing of liquor. The amount of untaxed liquor finding its way into bootleg channels is said by some investigators to equal the amount of legitimately manufactured spirits. The population of the Federal prisons is now about 12,250 whereas a year ago it was about 10,500.

**Riker's Island Penitentiary:** Commissioner MacCormick of the New York City Department of Correction is making rapid strides in completing the construction of the Riker's Island Penitentiary which has been stalled for over a year. It is expected that necessary changes will be completed and the penitentiary

ready for occupation early next summer.

**Wisconsin Prison Labor Law Unconstitutional:** The courts of Wisconsin have recently declared that the law of that State prohibiting the sale of prison made goods in the open market contravenes the State constitution. The ruling of the court was based upon the fact that the Wisconsin law was discriminatory in that it prohibited the sale of prison made goods imported from other states but permitted the sale of goods within its borders which were manufactured in its prison system.

**Testing Constitutionality of the Hawes-Cooper Bill:** A suit to test the constitutionality of the Hawes-Cooper Bill has reached the Supreme Court of the State of Ohio and it is expected that it will be placed on the calendar of the Supreme Court of the United States for argument in October, 1935. The suit is being pressed by the Attorney General of the State of Alabama, and William Logan Martin of Birmingham, Alabama, has been retained as special counsel.

J. V. B.

**Sterilization Bills—**Sterilization of mentally defective New Yorkers was proposed in a bill introduced in the legislature on February 19, 1935. Senator Martin W. Deyo of Binghamton and Assemblyman E. Ogden Bush of Walton, Republicans, said in introducing the bill that its purpose is to prevent "race degeneration."

The Deyo-Bush legislation is the first recent attempt to restore a sterilization law to the New York statutes. Such a law was passed in 1912, but was held unconstitutional in 1918. Fifty patients were treated.

About the same time compulsory sterilization of mental defectives as well as habitual criminals in Delaware was asked of the general assembly. A bill empowering the state board of charities to take into custody all persons adjudged feeble minded, epileptic, or chronically or recurrently insane and have the sterilization performed was introduced by Senator Norris N. Wright of Newark. The state law now provides for sterilization of defectives, but it contains no enforcing power.

**Oregon Procedural Reforms**—The Committee on the Improvement of the Rules of Judicial Procedure, appointed in 1933 by Governor Julius L. Meier of Oregon, made a report in December, 1934, indicating the "propositions which it believes should be enacted into law" accompanied by bills prepared by the committee to put the propositions into effect. Several of these are designed to make more efficient the Oregon criminal procedure and need not be listed here but certain changes advocated are of general interest because bar committees in almost all states are working upon similar reforms. The report included the following paragraphs:

"The committee recommends that the necessary action be taken which will grant to district attorneys the power to file informations not only against any individual who waives indictment, but also against anyone who waives preliminary hearing or against whom, after hearing, an order has been entered holding that probable cause exists for believing him guilty of the charge filed against him. The committee believes that the enactment of such a law will expedite the administration of criminal law and also safeguard the interests of defendants.

In order to improve the personnel of the jury, the committee recommends the elimination of all mandatory exemptions from jury service with the exception of those applicable to women and to judicial and civil officers. Our present laws exempt from jury service a very substantial part of the educated elements of society: the college professor, school teacher, minister, physician, etc. The committee believes that if these exemptions from jury service are repealed the personnel of the jury will be materially improved. The circuit court judges will still have power to excuse any individual from jury service when the facts warrant such action.

The committee recommends that the number of peremptory challenges allowed to the state and to the defendant be equalized. The committee believes that the privilege of excusing an excessive number peremptorily often results in eliminating from the jury its most intelligent members.

In order to avoid the defense of insanity from being used unfairly, the committee recommends the enactment of a law requiring a defendant who proposes to avail himself of that defense to give advance notice of his purpose.

The committee recommends that there be restored to our circuit court judges the common-law power of commenting on the evidence. This power is none other than that which is now possessed by the federal district court judges. It will enable the judge to give to the jury the benefit of his experience in appraising witnesses and weighing the evidence. No judge will be authorized by this power to direct the jury which evidence they must or must not believe. His exercise of the power of commenting on the evi-



dence will always be subject to review by the Supreme Court. This power will also enable him to rid his instructions to the jury concerning the law of much humdrum technical language and to couch them in understandable terms.

The Committee recommends that the omission of the defendant to testify in criminal cases may be the subject-matter of comment by the district attorney, and that if the power to comment on the testimony be restored to the circuit court judges that they too may comment on such omission. This recommendation is prompted by a belief that many times the defendant is the only one who can clear up a crime; that if he is innocent he will do so, and only refrain from so doing if guilty. Silence should not be a shield for the guilty.

The committee recommends the enactment of a statute which will provide that a party who calls his adversary as his witness shall not be deemed to have vouched for his credibility, but may impeach him. The reasons for this proposal are self-evident.

The committee recommends the enactment of a law creating a misdemeanor to be known as false swearing, the elements of which shall consist of (1) testifying falsely; (2) doing so knowingly. The crime of perjury embraces these two elements, together with a third, materiality. The difficulty of proving the latter oftentimes defeats justice. This new crime will be a lesser degree of the crime of perjury, as manslaughter is a lesser degree of the crime of murder."

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**New York Symposium**—At the joint meeting of the New York Neurological Society and the New

York Academy of Medicine, Section of Neurology and Psychiatry, held last November, an interesting discussion was presented which is reported in the February, 1935, issue of the *Journal of Nervous and Mental Disease*, Vol. 81, pp. 192 to 212. The general topic was "Psychiatry and the Criminal Law" and the psychiatric aspect was set forth in a paper by Dr. Bernard Glueck. He was followed by Professor Jerome Michael of Columbia whose paper was devoted to the legal aspect. Discussion followed in which Judge Cornelius F. Collins, Dr. Foster Kennedy, James G. Wallace, Esq., Dr. Ramsay Hunt, Robert H. Elder, Esq., Dr. Israel Strauss and Dr. William A. White participated. At the conclusion rebuttals by Dr. Glueck and Professor Michael were given.

We cannot begin to summarize the various points of view but readers who desire to obtain an interesting and stimulating discussion of the subject based upon a wealth of divergent experience are advised to consult this reference.

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**Illinois Bar Activities**—At the meeting of the Illinois State Bar Association in 1934 it was decided to organize the rapidly growing membership into Sections similar to those of the American Bar Association. Those members who were interested in criminal law were assigned to the section on Criminal Law and Its Enforcement under the General Chairman, Guy E. McCaughey, State's Attorney at Lawrenceville, Illinois. The section membership were asked to state their preferences in the field and were further divided among five committees one of which was already at work when the section was

organized. The five committees and their chairmen are: Committee on Revision of Criminal Code—Professor Robert W. Millar, Chicago; Committee on Law Enforcement—Benjamin C. Bachrach, Chicago; Committee on Criminology and Penology—Henry Barrett Chamberlin, Chicago; Committee on Criminal Science—Dean Albert J. Harno, Urbana; Committee on Juvenile Offenders—Harry Reck, Mendota.

At the meeting of the section in Chicago, February 1, 1935, the matter of approving the American Bar Association's Criminal Law Recommendations was discussed. The section authorized a questionnaire to be circulated on seven proposals. (See A. B. A. J. October, 1934, pp. 650-651). These were the creation of a state department of justice, waiver of jury, alternate jurors, the use of the information rather than indictment, less than unanimous verdicts, notice of alibi or insanity defense and comment upon defendant's failure to testify. All seven proposals were passed by the Bar group but it was interesting to note that the matter of less than unanimous verdicts barely passed and there was strenuous objection to the last two proposals. In reporting the vote back to the American Bar Association the section secretary stated, "I was interested in the fact that the prosecuting attorneys as a group overwhelmingly favored all seven reform proposals while defense attorneys were not in favor of the last three proposals: less than unanimous verdicts, notice of alibi and insanity and comment on failure to testify." Mr. Will Shafroth of the American Bar Association stated that this was characteristic of the returns being received by the American Bar Association, saying "The non-unanimous jury verdict is the least popu-

lar, and the notice of alibi and comment on the failure to testify are universally opposed by defense attorneys. There is practically no objection to the rest, except that not much is known about the state department of justice idea. It is probably true that there are logical objections which can be made to certain phases of it, such as the idea of putting the attorney general in charge."

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Department of Justice for New York—With growing interest displayed upon all sides the American Bar Association's proposal of State Departments of Justice, based upon the Federal government's department, has been discussed in almost all states in special bar committees, crime commissions and civic organizations. The bill recently sponsored by Honorable Pritchard H. Strong in the New York Legislature providing for the creation of a Bureau of Justice within the State Department of Law is reprinted here, not with the idea that it may serve as a "model" statute, because each state must solve its local situation separately, but with a desire to let the reader know what is being done in the largest and most important of our states. The bill was prepared with the help of W. Earl Smith, former New York State Deputy Attorney General, and former Special Assistant to the Attorney General, U. S. Department of Justice. On February 26, 1935, Mr. Pritchard stated that the committee had not yet reported the bill and that several amendments may be made.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Chapter twenty-three of the laws of nineteen hundred

nine, entitled "An act in relation to executive officers, constituting chapter eighteen of the consolidated laws," is hereby amended by inserting therein a new section, to be section sixty-two-a, to read as follows:

Section 62-a. Bureau of justice.

1. Establishment of bureau. There is hereby created, within the department of law, a bureau of justice, which bureau shall be composed of four separate divisions, namely, division of investigation, division of criminal identification, division of state police and division of police administration. The solicitor general shall be in direct charge of such bureau and shall co-ordinate the work and activities of the different divisions thereof so as to effect a cohesive and efficient agency for the prevention and detection of crime and the apprehension of criminals.

2. Division of investigation. The division of investigation shall have power and it shall be its duty to investigate and detect violations of the criminal laws of the state and to collect and present and make available for presentation evidence of such violations. The division shall establish and develop all modern means used or required in the detection of crime, which may include scientific laboratory research. There shall be acquired for and developed in such division a competent staff of skilled experts with the scientific and practical training necessary and in number sufficient to properly exercise the functions of the division. The entire personnel of such division shall be selected and appointed by the attorney-general and shall serve in accordance with civil service law and requirements and without regard to political affiliations. The head of such division shall be a director of investigation.

3. Division of criminal identifica-

tion. (a) The division of criminal identification shall have power and it shall be its duty to collect, file and preserve finger print records, photographs, measurements and all other records and data requisite for the identification of criminals and the keeping of proper records thereof, and such division shall be furnished and equipped with all the necessary equipment, furniture, apparatus and appliances necessary to the effective exercise of its functions. The head of such division shall be a director of criminal identification. The director of such division and all other employees therein shall be selected and appointed by the attorney-general and shall serve in accordance with civil service law and requirements.

(b) Such division shall procure and file for record in its offices, as far as can be procured, all plates, finger print records, photographs, outline pictures, descriptions and information concerning persons who have been arrested for felony or who shall hereafter be arrested for a felony under the laws of this or other states or of the United States, and of well known and habitual criminals from wherever procurable, and it shall be the duty of any person in charge of any state penal institution and of district attorneys, sheriffs, chiefs of police and other police officers in this state to furnish any such material to such division upon request. Such division shall co-operate with and assist the division of identification of the United States department of justice and also judges, district attorneys, sheriffs, chiefs of police and all other law enforcement officers of this state and of the United States in the establishment of a complete national system of criminal identification.

(c) It is hereby made the duty

of all district attorneys, sheriffs, chiefs of police and all other law enforcement officers in the state to immediately, upon the arrest of any person who, in the judgment of the arresting officer, is wanted on a felony charge, or who such officer has reason to believe is a fugitive from justice, to take and furnish to such division of criminal identification and to the division of identification of the United States department of justice copies of finger print records in duplicate with a description, photograph and all other available information respecting such person. The division of criminal identification shall compare such finger print records and such description and photographs as are received by such division with those already on file therein, and, if it is thereby determined that the person arrested has a criminal record or is a fugitive from justice, such division shall at once inform the arresting officer of such past criminal record in order to facilitate the work of identification of the name or names under which such person has been arrested, together with his available criminal record as known.

(d) All the functions, powers and duties relating to criminal identification, records, and statistics now vested in and exercised by the commissioner of correction and by the division of identification, records and statistics in the department of correction, and all the jurisdiction, powers and duties pertaining to such functions now prescribed by law, are hereby transferred to the department of law and hereafter shall be vested therein and exercised and performed by or through the division of criminal identification in the bureau of justice therein, or the administrative head of such division. The specific enumeration of any

functions, powers or duties in this subdivision shall not be construed in limitation of the same or similar functions, powers or duties elsewhere provided by law and transferred by this subdivision to the department of law. All of the equipment, furniture, apparatus and appliances now used by or in the possession or under the control of the division of criminal identification, records and statistics in the department of correction are hereby transferred to the division of criminal identification in the bureau of justice in the department of law for use by such division in exercising its functions as herein prescribed. All employees of such division in the department of correction are hereby transferred to the division of criminal identification in the department of law.

4. Division of state police. The division of state police in the executive department, as now organized and constituted, is hereby transferred to the department of law and shall hereafter be the division of state police in the bureau of justice therein, except that the head of such division shall no longer be the superintendent of state police but shall be a director of state police who shall be appointed by the attorney-general and hold office during his pleasure. Wherever, in any statute the superintendent of state police is referred to, it shall be deemed and construed to mean the director of state police herein provided for. All the functions, powers and duties now vested in and exercised by the superintendent of state police and the division of state police in the executive department, and all the jurisdiction, powers and duties pertaining to such functions now prescribed by law, are hereby transferred to the department of law and

hereafter shall be vested therein and exercised or performed by or through the director of state police and the division of state police, respectively, in the bureau of justice therein. All of the lands, buildings, equipment, furniture, apparatus and appliances now used by or in the possession or under the control of the division of state police in the executive department are hereby transferred to the division of state police in the bureau of justice in the department of law for use by such division in exercising its functions as herein prescribed.

5. Division of police administration. (a) The head of the division of police administration shall be a commission of police administration which shall consist of three commissioners, one of whom shall be chairman of the commission. The attorney-general shall appoint the chairman of the commission to serve for a term of three years and the other commissioners first appointed to serve for one and two years, respectively. Their successors shall be appointed in the same manner for full terms of three years each. Vacancies in the commission, occurring otherwise than by expiration of term, shall be filled in like manner for the unexpired term. No more than two members of the commission at any time shall be of the same political party affiliation. The commission shall act only with the concurrence of a majority of its members, except as otherwise expressly provided herein. The commission may appoint such other employees as may be necessary, subject to and in accordance with civil service law and requirements.

(b) Subject to the provision of this subdivision, the ordinary routine management and control of police forces in counties, cities, towns,

villages and districts, as now constituted and organized, including powers of appointment and promotion of members of such forces, shall remain in the local authorities.

(c) It shall be the duty of the commission to prescribe standards of training of personnel and qualifications for appointment and promotion of members of the various police forces and departments and law enforcement officers of counties, cities, towns, villages and districts of the state and prescribe standards of equipment for such police forces and departments. It shall define and recommend courses of instruction for members of police forces and law enforcement officers of the state as a prerequisite to appointment and promotion and shall exercise supervisory powers over such courses of instruction when presented. It shall prescribe special courses such, for example, as training in ballistics, use of modern firearms, finger printing, radio technique, crime detection, scientific laboratory work, rules of evidence, criminal law, criminal court procedure, and such other courses as may be necessary to the training of an efficient law enforcement officer. The commission shall encourage the establishment of schools in the various police departments of the state and may grant a certificate of qualification to police officers satisfactorily completing such courses of training and education. The commission may make such arrangements as are necessary for the presentation of such courses and the enrollment of police officers from other departments in such schools as now exist or are hereafter established in the state government or any city or political subdivision of the state.

(d) No police chief or head of a

police force or department shall be removed or suspended or without his consent transferred from such office, nor be lowered in rank or compensation, nor shall his office be abolished, except upon complaint of a duly qualified elector of the political unit involved, after full hearing before the entire commission sitting as a trial board which shall immediately convene for the purpose of a determination of the truth of the charges against such police chief or head of a police force or department or the propriety of the abolition of his office, and after a decision by the commission that the charges proved warrant the removal or reduction in rank or compensation or that the abolition of his office is proper and for the public good. Any member of the commission or a referee appointed or designated by the commission to hear testimony may summon witnesses and administer oaths and may take testimony and order the production of books, papers and documents which relate to any matter in question at the hearing. The supreme court may by appropriate order or decree enforce the decision, orders, or actions of the commission, which shall also be subject to review in *certiorari* proceedings brought before such court.

(e) The commission shall investigate and make recommendations to police forces and departments as to co-ordination or consolidation thereof with the police forces and departments of neighboring communities, the manner of effecting such co-ordination or consolidation and what new equipment, communication systems and other facilities should be provided for a modern, efficient and co-ordinated development of police organization for such communities. It shall recommend

measures of reorganization as to personnel and methods of carrying into effect the matters recommended by it. It shall make such plans and surveys as may be needed for its investigations and reports and recommendations. All counties, cities, towns, villages and districts are authorized and empowered to make such agreements and do all such acts as may be necessary or convenient to carry out the recommendations of the commission made under the provisions of this subdivision, which agreements, however, shall be subject to the approval of the commission. The commission may call upon the director of investigation to provide and it shall be his duty to provide from the personnel of the division of investigation such inspectors and assistants as may be necessary for full investigation into the condition and standards of organization, equipment, personnel and facilities of the various police forces and departments in the state. Every police force and department shall at all times be open to inspection by such inspectors and assistants.

(f) If the police force or department of a county, city, town, village or district has been conducted and maintained in accordance with the standards of organization, equipment, personnel, and co-ordination with other police forces in a manner approved and recommended by the commission, the state shall annually reimburse such county, city, town, village or district ten per centum of the annual cost of operation and maintenance of its police force or department, but such reimbursement shall not exceed the sum of two thousand dollars in the case of any one police force or department.

6. Compensation of officers and

employees. All officers and employees of the different divisions of the bureau of justice, except those transferred from other departments who shall continue to hold the same relative position and to receive the same compensation as may be provided by law, shall receive such compensation as may be fixed by the attorney-general within amounts made available by appropriation or as otherwise specifically fixed by appropriation. The transfer of any such officers and employees, however, shall be in accordance with and subject to the provisions of section six of the state departments law relating to transfers.

Section 2. Subdivision eight of section sixty-two of such chapter, as added by chapter five hundred and ninety-five of the laws of nineteen hundred seventeen, is hereby amended to read as follows:

8. Whenever in his judgment the public interest requires it, the attorney-general may, with the approval of the governor, and when directed by the governor, shall, inquire into matters concerning the public peace, public safety and public justice. *It shall be the duty of the attorney-general as chief law officer of the state to see that the laws of the state are uniformly and adequately enforced in every county of the state. He may require district attorneys, sheriffs or other law enforcement officers to make to him such written reports concerning the investigation, detection, prosecution and punishment of crime in their respective jurisdictions as to him may seem advisable. When directed by the governor he may assist any district attorney in the discharge of his duties.* For such purposes he may, in his discretion, and without civil service examination, appoint

and employ, and at pleasure remove, such deputies, officers and other persons as he deems necessary, determine their duties and, with the approval of the governor, fix their compensation, *provided, however, that such compensation shall not exceed the compensation of such deputies, officers or persons doing like work and similarly employed regularly in the office of the attorney-general, and such compensation shall be computed only at that rate for the actual time such deputies, officers and persons spend in the performance of their duties.* All appointments made pursuant to this subdivision shall be immediately reported to the governor, and shall not be reported to any other state officer or department. Payments of salaries and compensation of officers and employees and of the expenses of the inquiry shall be made out of funds provided by the legislature for such purposes, which shall be deposited in a bank or trust company in the names of the governor and the attorney-general, payable only on the draft or check of the attorney-general, countersigned by the governor, and such disbursements shall be subject to no audit except by the governor and the attorney-general. The attorney-general, his deputy, or other officer designated by him, is empowered to subpoena witnesses, compel their attendance, examine them under oath before himself or a magistrate and require the production of any books or papers which he deems relevant or material to the inquiry. If a person subpoenaed to attend upon such inquiry fails to obey the command of a subpoena without reasonable cause, or if a person in attendance upon such inquiry shall, without reasonable cause, refuse to be sworn or to be examined or to answer a

question or to produce a book or paper, when ordered so to do by the officer conducting such inquiry, he shall be guilty of a misdemeanor. It shall be the duty of all public officers, their deputies, assistants and subordinates, clerks and employees, and all other persons, to render and furnish to the attorney-general, his deputy or other designated officer when requested, all information and assistance in their possession and within their power. Each deputy or other officer appointed or designated to conduct such inquiry shall make a weekly report in detail to the attorney-general, in form to be approved by the governor and the attorney-general, which report shall be in duplicate, one copy of which shall be forthwith, upon its receipt by the attorney-general, transmitted by him to the governor. Any officer participating in such inquiry and any person examined as a witness upon such inquiry who shall disclose to any person other than the governor or the attorney-general the name of any witness examined or any information obtained upon such inquiry, except as directed by the governor or the attorney-general, shall be guilty of a misdemeanor.

Section 3. Section seventeen of such chapter, as added by chapter six hundred and seventy-six of the laws of nineteen hundred twenty-eight, is hereby repealed.

Section 4. All existing appropriations of moneys for salaries and expenses in the division of criminal identification, records and statistics in the department of correction, to the extent remaining unused, are hereby transferred to the credit of and made available to the department of law for salaries and expenses in the division of criminal investigation therein.

Section 5. All existing appropriations of moneys for salaries and expenses in the division of state police in the executive department, to the extent remaining unused, are hereby transferred to the credit of and made available for salaries and expenses in the division of state police in the bureau of justice in the department of law.

Section 6. The sum of one hundred thousand dollars (\$100,000), or so much thereof as may be necessary, is hereby appropriated from any moneys in the state treasury not otherwise appropriated to pay salaries and expenses of operation of the bureau of justice, established by this act in the department of law, and not otherwise provided for herein. Such moneys shall be paid out of the treasury on the audit and warrant of the comptroller upon vouchers properly certified by the attorney-general.

Section 7. This act shall take effect July first, nineteen hundred thirty-five.

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**Michigan Crime Conference**—February 5, 1935, a conference called by the Michigan State Crime Commission was opened by the presiding officer Hon. Harry S. Toy, Attorney General of Michigan. A highly representative group of 150 police officers, sheriffs, prosecutors, judges and lawyers attended. A general attack was made upon the parole and probation system as the weakest point in the machinery of criminal law administration. Many speakers united in urging a closer supervision of those placed upon probation and parole, a better training of probation and parole officers and a broad program of psychiatric examination of all offenders.

As the conference closed, these



suggestions stood in the forefront as likely to be proposed later for legislative action:

1. Universal fingerprinting, not only to identify criminals but to aid in solving kidnappings, accidents and other problems facing police.

2. Either extend the statute of limitations or repeal it entirely in order to keep criminals within the grasp of law.

3. Revamp the probation system, providing more probation officials, trained in the field.

4. Prohibit modification of sentences by circuit judges without notice.

5. Require scientific equipment for all police organizations, town, city, county.

6. Provide for extradition of witnesses.

7. Restrict the use of "extraordinary good time" for prisoners.

8. Revision of the statutes permitting "insanity" pleas.

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**Illinois Conference**—Governor Henry Horner of Illinois, who is a member of Attorney General Cummings' Advisory Committee, called a conference in Springfield early in January, which was attended by 800 local and county law enforcing officials. Among the speakers were the Governor, Attorney General Otto Kerner, Assistant U. S. Attorney General Joseph B. Keenan and State's Attorney Thomas J. Courtney of Cook County. Certain procedural changes were recommended but the chief resolution concerned the creation of a state police department, having powers of sheriffs and constables in all counties of the State, with radio communication, and under the direction of one uniform head. The present state police number only 300 and

are used mainly on highways with limited powers. They can work in cities only at the request of city officials. Expansion of the Illinois state police along the lines of the New York and Pennsylvania systems is needed in Illinois.

It should be noted by those interested in state police work that Senator Copeland's Senate anti-racket committee has approved a plan for the correlation of federal and state police forces whereby the states would select men to be trained by the Department of Justice and then these would be returned to their respective states to be vested with state police powers and operate under the supervision of the Attorney-General.

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**New York Study Proposed**—A resolution proposing a legislative investigation into the administration of criminal law and procedure in New York by a committee of four senators and three members of assembly, is proposed in a resolution now before the Legislature, introduced by Senator John J. McNaboe of New York city. An appropriation of \$250,000 is asked to finance the inquiry, the committee to report not later than February 1, 1936.

Under the provisions of the resolution the committee would be authorized to make an investigation "in respect of the adequacy of the Penal Law, the Inferior Criminal Courts Act, the Code of Criminal Procedure, and the need for amendment or modification thereof; the effectiveness or lack of effectiveness in all the law enforcement agencies and machinery; the sufficiency of the parole, probation and correction law, and the administration thereof; the relationship of politics to the corruption of or improper influence

of or upon the administration of criminal law and procedure, including the judiciary, the police and the other law enforcing agencies and departments; the responsibility of the criminal bar and judiciary for the failure in the proper and effective enforcement of criminal law and into every matter and thing whatsoever connected therewith or relating thereto including the entire administration of criminal justice in this State and each and every law relating or pertaining thereto or connected therewith, and of each and every officer, commission, agency, board, bureau or department of this State or any political subdivision thereof in any manner connected therewith in any and every respect whatsoever and including any and every other matter and thing connected with law enforcement, the commission of crime and the observance of and respect for law and order." ("Correction" January, 1935.)

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**Miscellaneous—** An interesting statement concerning criminal law enforcement from the viewpoint of the defendant is found in the Chicago Bar Record (January-February, 1935) pp. 137-139 by a noted criminal lawyer of Chicago, Joseph T. Harrington, who says:

"There have been numerous conferences called for the purpose of enforcing the criminal law, but the subject generally comes around to the proposition of how to convict a man who is accused of crime by eliminating some of the safeguards that have been thrown around him, such as not requiring a unanimous verdict on the part of the jury. One reason why juries will not convict in cases where the defendant may be guilty is the abuses that have

been heaped on the defendant in denying him the rights to which he is entitled from the time when he is first accused of a crime."

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The American Prison Association has sponsored a "Policeman's Day." Mr. E. R. Cass, General Secretary of the American Prison Association, has thought for years that crime could be decreased by teaching children that the policeman is their friend. In the course of his recent reading he came across Harlan Eugene Read's "Courtship of Officer Mike," in the February Pictorial Review. It stirred him to write to a thousand leaders of American thought to get their reactions to the idea of a special campaign that would promote cooperation between children and policemen. Responses from governors, police chiefs, heads of school systems and state and national welfare agencies were immediate and enthusiastic. We hope that this movement will attract more attention to general crime *prevention* activities.

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The Annual Report of the Municipal Court of Chicago shows that court in 1933 handled 14,274 felonies, 236,862 "quasi"-criminal and bastardy cases, i. e., violation of ordinances, and 68,450 misdemeanors—total 319,586 criminal cases in one city in one year. These figures indicate at once the great importance of the subject of court organization and administration which at present receives far less attention than questions of the death-sentence or rules of criminal procedure.

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The American Judicature Society's Journal for February has an interesting article on the Special License for Criminal Defenders. It points out that the "ballyhoo" against law-

yer-criminals is open to several serious objections though it offers what appears to be "an easy solution of a problem which is anything but easy because it involves the weaknesses of human nature, of society, and especially of our political organization." The plan proposed by A. W. Trice of the Oklahoma Bar to have special licenses for criminal lawyers is favorably received. It would prevent criminal practice by novices and would restrict competition to lawyers officially approved, e. g., the lawyers specially licensed to practice in the United States courts. "There are already in the criminal field a sufficient number of *reputable* practitioners to meet all needs. It would not be a difficult matter to select them and refuse to select the unfit. . . . Here seems to be the ready and consistent means for ridding the profession of its present chief cause for shame, and of conferring upon the bar a great benefit though in the guise of a restriction."

Dr. H. S. Cumming, Surgeon General of the U. S. Public Health Service, Treasury Department, has recently sent to all U. S. Judges, Clerks, Commissioners, Attorneys, Marshals, and other officers the regulations governing the admission of persons to the United States Narcotic Farm.

On June 26, 1934, the Wisconsin Supreme Court by order adopted and promulgated the following rule: "Alibi to be Pleaded. In courts of record in case the defendant intends to rely upon an alibi as a defense he shall give to the prosecuting attorney written notice thereof on the day of arraignment, stating particularly the place where he claims to have been when the of-

fense is alleged to have been committed; in default of such notice, evidence of the alibi shall not be received unless the court, for good cause shown shall otherwise order."

The rule was made effective January 1st, 1935.

Securing the adoption of the rule was much simplified by the Legislative recognition of the power of the Supreme Court to make rules for pleading, practice and procedure in 1929.

The Panel, published by the Association of Grand Jurors of New York County, for January-February, 1935, which carried an account of the Wisconsin Alibi rule, also contained two very interesting articles on grand jury presentments: "1934 Grand Jury Presentments Expose Flagrant Conditions in New York County" by Robert R. Wilkes and "Grand Jury Presentments" by Edward A. Alexander.

For several years the Chicago Crime Commission through its operating director, Henry Barrett Chamberlin, President of the American Institute of Criminal Law and Criminology, has waged an active war on automobile thieves. The success of its campaign has resulted in vast saving to the community in reduced insurance rates which were reduced 26 per cent in 1934 and the Commission reports that today the market for stolen cars is almost nonexistent. The daily average of stolen cars in 1932 was 103 while the average for 1934 was 21. Further reduction of rates in 1935 is expected.

The interesting articles on the Glueck study "One Thousand Juvenile Delinquents" which appeared in *Mental Hygiene* (October, 1934)

have been reprinted and circulated by the National Committee for Mental Hygiene. Dr. Henry B. Elkind, Medical Director of the Massachusetts Society for Mental Hygiene, and Dr. Maurice Taylor, Director of the Jewish Family Welfare Association of Boston, collaborated in a criticism of the Gluecks' findings. A reply was made by Professor and Mrs. Glueck. A rejoinder by Drs. Elkind and Taylor appeared in the January, 1935, number of *Mental Hygiene*.

The National Probation Association will meet this year in Montreal, June 8th to 15th, and except for one special meeting on Saturday preceding it will hold its sessions at the same time the National Conference of Social Work meets. The social workers plan to abandon the usual twelve divisions and to reduce the number of programs which have become unwieldy. At the Montreal meeting they are to operate in four divisions: case work, group work, community organization, and social action.

Those interested in problems of the jury in the administration of the criminal law should procure the Supplement to *Bar Bulletin*, No. 93, January, 1935, published by the Bar Association of the City of Boston. This 30-page booklet is the report with recommendations of a special bar committee on methods of selecting jurors and is entitled "The Selection of Jurors in Boston."

The December, 1934, *Kansas Judicial Council Bulletin*, devotes much space to a critical study of re-

forms in criminal law administration proposed for that state. Discussion is found of Depositions in Criminal Cases, Pleading an Alibi, Comment upon Defendants' Failure to Testify, Comment on Evidence by Trial Judge, and a variety of statutory changes concerning criminal appeals.

Dr. Frank C. Richmond, Director of the Psychiatric Field Service of the State Board of Control of Wisconsin, recently made a report for the years 1932-1934. This independent state-wide agency made 6,186 examinations in correctional institutions in that period in addition to examination of cases in the public schools and schools for the blind and deaf, state colonies and training schools, the Central State Hospital for Criminal Insane and Feeble-minded, and in lunacy hearings requiring special consideration.

Professor J. L. Gillin, professor of sociology, University of Wisconsin, and well known author of works on criminology, was appointed to membership on the Parole Board recently set up by Governor Philip La Follette of Wisconsin.

The Department of Commerce, Bureau of the Census, has made two releases on "Prisoners in State and Federal Prisons and Reformatories: 1933." The tabulations of age, sex, type of offense, length of sentence, prisoners discharged, etc., of the sixty odd thousand prisoners should be noted by all criminologists. Copies may be obtained from the United States Department of Commerce.